

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

AT&T Mobility, LLC

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)File No.: EB-SED-13-00009047¹

Acct. No.: 201332100017

FRN: 0018624742

ORDER

Adopted: September 30, 2013**Released: September 30, 2013**

By the Acting Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and AT&T Mobility, LLC (AT&T Mobility). The Consent Decree resolves and terminates the Bureau's investigation into possible violations of Section 301 of the Communications Act of 1934, as amended (Act),² and Sections 1.929(b) and 1.947(a) and (b) of the Commission's rules (Rules),³ pertaining to the timely filing of applications to modify a carrier's Cellular Geographic Service Area.

2. The Bureau and AT&T Mobility have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether AT&T Mobility possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act⁴ and Sections 0.111 and 0.311 of the Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ The investigation initiated under File No. EB-09-SE-117 was subsequently assigned File No. EB-SED-13-00009047. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² 47 U.S.C. § 301.

³ 47 C.F.R. §§ 1.929(b), 1.947(a)-(b).

⁴ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁵ 47 C.F.R. §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Teri Lindsay, Vice President – Global Engineering Support, AT&T Services, Inc., 1120 20th Street, N.W., Suite 100, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Robert H. Ratcliffe
Acting Chief, Enforcement Bureau

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No.: EB-SED-13-00009047 ¹
)	Acct. No.: 201332100017
AT&T Mobility, LLC)	FRN: 0018624742
)	

CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and AT&T Mobility, LLC, by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau's investigation into possible violations of Section 301 of the Communications Act of 1934, as amended,² and Sections 1.929(b) and 1.947(a) and (b) of the Commission's rules (Rules),³ pertaining to the timely filing of applications to modify a carrier's Cellular Geographic Service Area.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) "Act" means the Communications Act of 1934, as amended, 47 U.S.C. §§ 151 *et seq.*
 - (b) "Adopting Order" means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) "AT&T Mobility" or "Company" means AT&T Mobility, LLC, and its predecessors-in-interest and successors-in-interest.
 - (d) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
 - (e) "Cellular Geographic Service Area" or "CGSA" is the geographic area considered by the FCC to be served by a cellular system, and within which a cellular system is entitled to protection from interference.⁴
 - (f) "CGSA Modification Rules" means Sections 1.929(b), 1.947(a), and 22.911 of the Rules and other Communications Laws governing the filing of applications to expand a licensee's CGSA.

¹ The investigation initiated under File No. EB-09-SE-117 was subsequently assigned File No. EB-SED-13-00009047. Any future correspondence with the FCC concerning this matter should reflect the new case number.

² 47 U.S.C. § 301.

³ 47 C.F.R. §§ 1.929(b), 1.947(a)-(b).

⁴ *See id.* § 22.911.

- (g) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
- (h) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which AT&T Mobility is subject by virtue of its business activities, including but not limited to the CGSA Modification Rules.
- (i) “Compliance Plan” means the compliance obligations and compliance program described in this Consent Decree at paragraph 11 hereof.
- (j) “Covered Employees” means all employees and agents of AT&T Mobility who perform duties, or supervise, oversee, or manage the performance of duties, that relate to AT&T Mobility’s responsibilities under the CGSA Modification Rules, but excludes those employees or agents of AT&T Mobility who perform construction or similar tasks related to the physical maintenance of AT&T Mobility’s cellular network.
- (k) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (l) “Investigation” means, collectively, the investigation commenced by the Bureau’s June 11, 2009, letter of inquiry⁵ pertaining to possible violations of the CGSA Modification Rules, including (i) AT&T Mobility’s subsequent disclosure to the Bureau of certain additional applications involving possible violations of the CGSA Modification Rules,⁶ and (ii) AT&T Mobility’s disclosure to the Bureau of its discontinuance of cellular service at AT&T Mobility’s former cell site at Roger’s Peak in the Death Valley National Park, California.
- (m) “Operating Procedures” means the standard, internal operating procedures and policies established by AT&T Mobility to implement the Compliance Plan and ensure that it complies with the CGSA Modification Rules.
- (n) “Parties” means AT&T Mobility, LLC and the Bureau, each of which is a “Party.”
- (o) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Sections 1.929(b) and 1.947(a) of the Rules classify applications proposing network modifications that would expand the CGSA of an existing cellular system as major change applications necessitating prior Commission approval.⁷ Under Sections 1.929(k) and 1.947(b) of the Rules, network

⁵ See Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Jacquelyne Flemming, Assistant Vice President Federal Regulatory, AT&T Mobility, LLC (June 11, 2009) (on file in EB-SED-13-00009047).

⁶ See Letter from Jacquelyne Flemming, AVP-External Affairs/Regulatory, AT&T Services, Inc., to John Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau (Aug. 5, 2013) (on file in EB-SED-13-00009047).

⁷ See 47 C.F.R. §§ 1.929(b), 1.947(a).

modifications that would reduce a cellular system's CGSA are classified as minor change applications, and a licensee implementing such system modifications must file a minor change notification within thirty days of making any such change. In the *2000 Biennial Review Reconsideration Order*,⁸ the Commission adopted the "secondary operations policy," which permits cellular licensees to "extend into adjacent unserved area[s] of less than 50 square miles without prior approval by the Commission, and without first undergoing the major modification process."⁹ Licensees are required to notify the Commission within thirty (30) days after implementing such changes.¹⁰

3. Prior to the sunset of analog cellular coverage, AT&T Mobility conducted a review of its network coverage to determine whether shutting down analog service would result in any reduction in service to its customers. Following that review, in January 2007, AT&T Mobility disclosed to the Wireless Telecommunications Bureau (Wireless Bureau) that many of AT&T Mobility's CGSA records were out of date. Thereafter, AT&T Mobility filed major change applications and minor change notifications (collectively, the Applications) to modify certain of its CSGAs.¹¹ In June 2009, the Wireless Bureau granted certain of the Applications without prejudice to future enforcement action. The Wireless Bureau subsequently referred this matter to the Bureau for investigation and possible enforcement action.¹²

4. On June 11, 2009, the Bureau's Spectrum Enforcement Division issued a letter of inquiry (LOI) to AT&T Mobility, directing the company to submit a sworn written response to a series of questions relating to the Applications.¹³ AT&T Mobility responded to the LOI on July 31, 2009.¹⁴ In its LOI Response, AT&T Mobility noted that it had initiated efforts to update the internal protocols and controls followed by its network personnel to facilitate the timely filing of applications to modify CSGAs.¹⁵ AT&T Mobility subsequently filed various supplements to its LOI Response, submitting

⁸ See *Year 2000 Biennial Review – Amendment of Part 22 of the Commission's Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and Other Commercial Mobile Radio Services*, Order on Reconsideration, 19 FCC Rcd 3239 (2004) (*2000 Biennial Review Reconsideration Order*).

⁹ *Id.* at 3256–57, para. 41. An "unserved area" is that portion of the licensee's Cellular Market Area (CMA) Block not built out within the five-year period after the grant of the initial construction authorization for that CMA Block. *Id.* at 3253, para. 34. Any such extension would be on a secondary basis only and would not become part of the licensee's CGSA unless the licensee filed a major change application and such application was granted. *Id.* at 3256, para. 41.

¹⁰ *Id.* See also 47 C.F.R. 1.947(b).

¹¹ *Sunset of the Cellular Radiotelephone Service Analog Service Requirement and Related Matters*, Memorandum Opinion and Order, 22 FCC Rcd 11243 (2007) (*Analog Sunset MO&O*) (permitting licensees, "in lieu of making a revised CGSA showing, to certify that the discontinuance of [analog] service will not result in any loss of wireless coverage throughout the carrier's CGSA."). Licensees that could not so certify were required to file a revised CGSA determination. *Id.* at 11267, para. 49.

¹² On September 21, 2011, AT&T Mobility filed a major modification application to modify the Roger's Peak site and expand the CGSA for call sign KNKN209. See File No. 0004882280 (filed Sept. 21, 2011). At some point during the summer of 2011, AT&T Mobility ceased transmitting from the Roger's Peak site, but did not file the appropriate modification application with the Commission until October 10, 2012. Simultaneously with filing the application to remove the Roger's Peak site from the license for call sign KNKN209, AT&T Mobility voluntarily disclosed the matter to the Bureau. See File No. 0005441786. The Commission granted the application on October 25, 2012.

¹³ See *supra* note 5.

¹⁴ See Letter from Robert Vitanza, General Attorney, AT&T Services, Inc., to Thomas D. Fitz-Gibbon, Staff Attorney, Spectrum Enforcement Division, FCC Enforcement Bureau (July 31, 2009) (on file in EB-SED-13-00009047) (LOI Response).

¹⁵ *Id.* at 8.

additional information relevant to the Investigation.¹⁶ The Bureau and AT&T Mobility entered into tolling agreements to toll the statute of limitations.¹⁷

5. We note that the Commission is currently considering whether to alter its site-based licensing framework. On February 15, 2012, the Commission issued a Notice of Proposed Rulemaking and Order proposing to transition the existing site-based licensing model for the Cellular Radiotelephone Service (Cellular Service) to a geographic-based approach, which would generally authorize construction within a particular geographic boundary (subject to certain interference protection and other technical requirements) and would not entail applications for prior Commission approval of specific transmitter locations.¹⁸ The Commission also adopted an immediate freeze on the filing of certain Cellular Service applications claiming an unserved area in “Covered” CMA Blocks, including new-system Cellular Service licenses and major modifications to expand existing systems if claiming an unserved area that is not contiguous to the existing CGSA.¹⁹

III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

7. **Jurisdiction.** AT&T Mobility agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to

¹⁶ See, e.g., Letter from Robert Vitanza, General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Oct. 7, 2009) (on file in EB-SED-13-00009047); Letter from Robert Vitanza, General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Dec. 7, 2009) (on file in EB-SED-13-00009047); Letter from Robert Vitanza, General Attorney, AT&T Services, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 11, 2010) (on file in EB-SED-13-00009047); Letter from Robert Vitanza, General Attorney, AT&T Services, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission (Feb. 22, 2011) (on file in EB-SED-13-00009047).

¹⁷ See, e.g., Tolling Agreement Extension, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Robert Vitanza, General Attorney, AT&T Mobility, LLC (July 3, 2013) (on file in EB-SED-13-00009047).

¹⁸ See *Amendment of Parts 1 and 22 of the Commission's Rules with Regard to the Cellular Service, Including Changes in Licensing of Unserved Area; Amendment of the Commission's Rules with Regard to Relocation of Part 24 to Part 2; Interim Restrictions and Procedures for Cellular Service Applications*, WT Docket No. 12-40, Notice of Proposed Rulemaking and Order, 27 FCC Rcd 1745 (2012). Specifically, the Commission proposed to issue geographic-area “Overlay Licenses” through competitive bidding in two stages. *Id.* at 1746, para. 2.

¹⁹ *Id.* at 1771-74, paras. 67-75. The Commission defined “Covered Blocks” to be those Blocks preliminarily determined to be “Substantially Licensed” and those preliminarily determined to be more than 90% but less than 95% licensed. *Id.* at 1772-73, para. 69.

terminate the Investigation. In consideration for the termination of the Investigation, AT&T Mobility agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against AT&T Mobility concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against AT&T Mobility with respect to AT&T Mobility's basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

10. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, AT&T Mobility shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall be responsible for developing, implementing, and administering the compliance procedures, detailed below, that AT&T must implement to ensure compliance with the terms and conditions of this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the CGSA Modification Rules prior to assuming his/her duties.

11. **Compliance Plan.** For purposes of settling the matters set forth herein and based on the circumstances presented in this case (including the Commission's pending rulemaking proceeding in WT Docket No. 12-40²⁰), AT&T Mobility agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree.²¹ With respect to the CGSA Modification Rules, AT&T Mobility shall implement the following procedures:

- (a) **Operating Procedures and Compliance Manual.** Within sixty (60) calendar days after the Effective Date, AT&T Mobility shall review and augment its existing Operating Procedures pertaining to compliance with the CGSA Modification Rules.²² AT&T Mobility's Operating Procedures shall explain the CGSA Modification Rules and set forth the procedures that all Covered Employees must follow to help ensure AT&T Mobility's compliance with the CGSA Modification Rules, which shall include internal procedures and policies specifically designed to ensure that all applications and notifications filed by AT&T Mobility with respect to the modification of a CGSA are timely filed in accordance with the CGSA Modification Rules. AT&T Mobility shall distribute

²⁰ See *supra* note 18.

²¹ AT&T Mobility represents that it has comprehensive organizational structures, plans, and procedures in place that are intended to ensure compliance with the Communications Laws. See, e.g., *AT&T, Inc.*, Order, 28 FCC Rcd 5994, 6000-04, paras. 11-14 (Enf. Bur. 2013) (re: Telecommunications Relay Services and TRS Fund); *AT&T, Inc.*, Order, 27 FCC Rcd 13492, 13496-501, paras. 10-16 (Enf. Bur. 2012) (re: 47 U.S.C. §§ 201(b), 202(a) (re: truth-in-billing)); *AT&T, Inc.*, Order, 26 FCC Rcd 3332, 3336-37, para. 8 (Enf. Bur. 2011) (re: network outage reporting); *AT&T, Inc.*, 25 FCC Rcd 16196, 16201-03, para. 10 (re: CPNI). This Consent Decree does not require new organizational structures, plans, or procedures except as necessary to implement paragraphs 10-13 of this Consent Decree.

²² AT&T Mobility represents that it maintains written Operating Procedures (which serve as a Compliance Manual) on the CGSA Modification Rules and that these documents provide guidance on standard operating procedures with which Covered Employees must comply, include a detailed explanation of AT&T's obligations under the CGSA Modification Rules, and outline general principles of business conduct in connection with AT&T's compliance with these rules.

the Operating Procedures to all Covered Employees within sixty (60) calendar days after the Effective Date. AT&T Mobility shall periodically review and revise its Operating Procedures as necessary to ensure that the information set forth therein remains current and complete, and shall distribute any revisions to the Operating Procedures promptly to all Covered Employees.

- (b) **Compliance Training.** AT&T Mobility shall establish and implement a Compliance Training Program on compliance with the CGSA Modification Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of AT&T Mobility's obligation to report noncompliance under paragraph 12 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. AT&T Mobility shall repeat the compliance training on an annual basis, and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

12. **Reporting Noncompliance.** AT&T Mobility shall report any noncompliance with the CGSA Modification Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after the discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that AT&T Mobility has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that AT&T Mobility has taken or will take to prevent the recurrence of any such noncompliance. All such reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-C366, Washington, DC 20554, with a copy submitted electronically to Linda Nagel at Linda.Nagel@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

13. **Compliance Reports.** AT&T Mobility shall file compliance reports with the Commission ninety (90) days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- (a) Each compliance report shall include a detailed description of AT&T Mobility's efforts during the relevant period to comply with the terms and conditions of the Consent Decree and the CGSA Modification Rules, including updates to or changes in the Operating Procedures designed to ensure future compliance with such rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as agent of and on behalf of AT&T Mobility, stating that the Compliance Officer has personal knowledge that AT&T Mobility (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 12 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of

the Rules²³ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.

- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of AT&T Mobility, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that AT&T Mobility has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that AT&T Mobility has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-C366, Washington, DC 20554, with a copy submitted electronically to Linda Nagel at Linda.Nagel@fcc.gov and to Ricardo Durham at Ricardo.Durham@fcc.gov.

14. **Termination Date.** Unless stated otherwise, the obligations set forth in paragraphs 10 through 13 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

15. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act against AT&T Mobility or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaints will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by AT&T Mobility with the Communications Laws.

16. **Voluntary Contribution.** AT&T Mobility agrees that it will make a voluntary contribution to the United States Treasury in the amount of six hundred thousand dollars (\$600,000) within thirty (30) calendar days after the Effective Date. AT&T Mobility shall also send electronic notification of payment to Linda Nagel at Linda.Nagel@fcc.gov, Ricardo Durham at Ricardo.Durham@fcc.gov, and to Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁴ When completing the FCC Form 159, enter the Account Number in block number 23A and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that AT&T Mobility should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

²³ 47 C.F.R. § 1.16.

²⁴ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If AT&T Mobility has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

17. **Waivers.** AT&T Mobility waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. AT&T Mobility shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, AT&T Mobility and the Commission shall not contest the validity of the Consent Decree or of the Adopting Order, and AT&T Mobility shall waive any statutory right to a trial *de novo*. AT&T Mobility hereby agrees to waive any claims it may have under the Equal Access to Justice Act²⁵ relating to the matters addressed in this Consent Decree.

18. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

19. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which AT&T Mobility does not expressly consent), that provision will be superseded by such Rule or Commission order.

20. **Successors and Assigns.** AT&T Mobility agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

21. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

22. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

23. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

²⁵ Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

24. **Authorized Representative.** The individual signing this Consent Decree on behalf of AT&T Mobility represents and warrants that she is authorized by AT&T Mobility to execute this Consent Decree and to bind AT&T Mobility to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

25. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Robert H. Ratcliffe
Acting Chief
Enforcement Bureau

Date

Teri Lindsay
Vice President - Global Engineering Support
AT&T Services, Inc.

Date